

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DONALD MALONE,

Plaintiff,

v.

Case No. 2:09-cv-260
HON. R. ALLAN EDGAR

PATRICIA CARUSO, et al.,

Defendants.

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OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S

REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on April 20, 2010, recommending the denial of plaintiff's motion for a preliminary injunction seeking an order allowing his wife unrestricted visitation privileges at the prison. The Report and Recommendation was duly served on the parties. The Court has received objections from plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Plaintiff, a prisoner, claims that his wife was denied visitation rights at the prison after she was labeled a possible drug smuggler. Plaintiff has filed this lawsuit asserting that the defendants have denied him his rights. Plaintiff asserts that he has shown a substantial likelihood of success on the merits of his underlying claim, because he has a right to freedom of association with his wife while he is confined within a prison. Any right that plaintiff has is clearly subject to restriction. Plaintiff concedes this in his objections by asserting that certain findings could restrict

visitation privileges. Plaintiff claims that the Magistrate Judge erred in making findings. However, the court is required to balance the four factors necessary for plaintiff to establish injunctive relief. Plaintiff has not shown that those four factors balance in his favor.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that plaintiff's motion for a preliminary injunction (Docket #17) is DENIED.

Dated: 10/25/2010

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE